

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

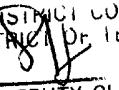
JAN 06 2004

Board of Regents, The University of Texas
System, and 3D Systems, Inc.,

Plaintiffs,

v.
EOS GmbH Electro Optical Systems,
Defendant.

Civil Action No. A03 CA 113SS

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY 
DEPUTY CLERK

**APPENDIX OF STATE STATUTES AND CASES CITED IN SUPPORT OF MOTION
OF PLAINTIFFS BOARD OF REGENTS, THE UNIVERSITY OF TEXAS SYSTEM
AND 3D SYSTEMS, INC. FOR SUMMARY JUDGMENT ON EOS'S
THIRD AFFIRMATIVE DEFENSE OF EXPRESS LICENSE**

Plaintiffs Board of Regents, University of Texas ("UT") and 3D Systems, Inc. ("3D Systems") hereby respectfully submit this *Appendix Of State Statutes And Cases Cited In Support Of Motion Of Plaintiffs Board Of Regents, The University Of Texas System And 3D Systems, Inc. For Summary Judgment On EOS'S Third Affirmative Defense Of Express License*.

State Cases

1. *Alling v. Universal Mfg. Corp.*, 5 Cal. App. 4th 1412 (1992)
2. *Banco Do Brasil, S.A. v. Latian, Inc.*, 234 Cal. App. 3d 973 (1991)
3. *Bank of the West v. Superior Court*, 2 Cal. 4th 1254 (1992)
4. *City of Manhattan Beach v. Superior Court*, 13 Cal. 4th 232 (1996)
5. *In re Cox Estate*, 8 Cal. App. 3d 168 (1970)
6. *Continental Heller Corp. v. Amtech Mechanical Servs., Inc.*, 53 Cal. App. 4th 500 (1997)

174

7. *CQL Original Products, Inc. v. National Hockey Players' Association*, 39 Cal. App. 4th 1347 (1995)
8. *Crestview Cemetery Ass'n v. Dieden*, 54 Cal. 2d 753 (1960)
9. *Hernandez v. Badger Constr. Equip. Co.*, 28 Cal. App. 4th 1791 (1994)
10. *Hilleary v. Garvin*, 193 Cal. App. 3d 322 (1987)
11. *Kennecott Corp. v. Union Oil Co.*, 196 Cal. App. 3d 1179 (1987)
12. *Estate of Klauenberg*, 32 Cal. App. 3d 1067 (1973)
13. *Machado v. Southern Pac. Transp. Co.*, 233 Cal. App. 3d 347 (1991)
14. *Morey v. Vannucci*, 64 Cal. App. 4th 904 (1998)
15. *Pacific Gas & Elec. Co. v. Zuckerman*, *Pacific Gas & Elec. Co. v. Zuckerman*, 189 Cal. App. 3d 1113 (1987)
16. *Pacific Gas & Electric Co. v. G.W. Thomas Drayage & Rigging Co.*, 69 Cal. 2d 33 (1968)
17. *Parsons v. Bristol Development Co.*, 62 Cal. 2d 861 (1965)
18. *Price v. Wells Fargo Bank*, 213 Cal. App. 3d 465 (1989)
19. *Sharlin v. Superior Court*, 9 Cal. App. 4th 162 (1992)
20. *Shaw v. Regents of University of Cal.*, 58 Cal. App. 4th 44 (1997)
21. *Tollefson v. Roman Catholic Bishops*, 219 Cal. App. 3d 843 (1990)
22. *Universal Sales Corp. v. California Press Mfg. Co.*, 20 Cal. 2d 751 (1942)
23. *Western Med. Enterp., Inc. v. Albers*, 166 Cal. App. 3d 383 (1985)
24. *Zurich General Accid. & Liability Assurance Co. v. Industrial Accid. Comm'n*, 132 Cal. App. 101 (1933)

State Statutes

25. Cal. Civ. Code § 1635
26. Cal. Civ. Code § 1641
27. Cal. Civ. Code § 1645

28. Cal. Civ. Code § 1656
29. Cal. Civ. Proc. Code § 1856(a)
30. Cal. Civ. Proc. Code § 1859
31. Cal. Civ. Proc. Code § 1860
32. Cal. Civ. Proc. Code § 1861
33. Cal. Civ. Proc. Code § 1864

Other Authorities

34. 1 B. Witkin, SUMMARY OF CAL. LAW, "Contracts," § 119 at 144 (9th ed. 1987)
35. 1 Witkin, SUMMARY OF CAL. LAW, "Contracts," §§ 688-689 at 621 (9th ed. 1987)
36. 2 B. Witkin, CALIFORNIA EVIDENCE, § 963 at 911 (3d ed. 1986)
37. 2 Witkin, CAL. EVIDENCE, "Documentary Evidence," §§ 960 at 908 (3d ed. 1986)

Dated: January 6, 2004

Respectfully submitted,

Philip E. Cook, by permission
PHILIP E. COOK
California State Bar No. 149067
Admitted *pro hac vice*
ROBERT W. DICKERSON
California State Bar No. 89367
Admitted *pro hac vice*
JONES DAY
555 West Fifth Street
Suite 4600
Los Angeles, California 90013-1025
Telephone: (213) 489-3939

GRAY, CARY, WARE & FREIDENRICH LLP
ALAN D ALBRIGHT
Federal Bar No. 13048
Texas State Bar No. 00973650
ELIZABETH J. BROWN FORE
Texas State Bar No. 24001795
1221 South MoPac Expressway, Suite 400
Austin, TX 78746-6875
Telephone: (512) 457-7000
Facsimile: (512) 457-7001

Attorneys for Plaintiffs
BOARD OF REGENTS, THE
UNIVERSITY OF TEXAS SYSTEM,
and 3D SYSTEMS, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served in the following manner to the following counsel of record on this 6th day of January, 2004.

Thomas H. Watkins *Via Certified Mail*

Albert A. Carrion, Jr.

HILGERS & WATKINS P.C.

98 San Jacinto Boulevard

San Jacinto Center, Suite 1300

Austin, Texas 78701

(512)476-4716

(512) 476-5139 Facsimile

Michael H. Baniak *Via Federal Express*

Michael D. Gannon

BANIAK PIKE & GANNON

150 N. Wacker Drive, Suite 1200

Chicago, Illinois 60606

(312) 673-0360

(312) 673-0361 Facsimile

Attorneys for Defendant
EOS GMBH ELECTRO OPTICAL SYSTEMS


ELIZABETH J. BROWN FORE

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**Notice of Document/Attachment(s) Not Imaged
and Contained in Expandable Folder**

**See Expandable File(s) to View/Copy
Document/Attachment(s)**

Civil Case No. A:03-CA-113 SS

Board of Regents, The University of Texas System, and 3D Systems, Inc.

VS.

Board of Regents, The University of Texas System, and 3D Systems, Inc.

Attachments to
Document #: 173

Description: Appendix of State Statutes and Cases Cited in support of Plaintiffs' Motion for Summary Judgment on EOS's Third Affirmative Defense of Express License

File Date: 1/6/04

Prepared by: TDK

This sheet to be imaged as the last page.